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Office of the R.L.A.

The orders of Government as contained in G.R.Political Department No.6379 dated the 25th August 1917 were inter alia as follows:-

"In their Despatch No.25, dated the 22nd April 1857, the Court of Directors sanctioned the grant of pension of one lakh of rupees a year to Mir Jafarali Khan and his two daughters, Zia-ul-Nissa Begum and Rahim-ul-Nissa Begum with the condition that it should continue so long as any of the grantees survived. Mir Jafarali Khan was the husband of Bakhtiar-ul-Nissa Begum the daughter and only child of Nawab Mir Afzuluddin Khan of Surat, who was the second lineal descendant in the direct male line of the first Nawab of Surat. Mir Jafarali Khan died in 1861 and the annual grant of one lakh of rupees was continued to his two daughters under the orders contained in the letter from the Government of Bombay No.3308, dated the 17th October 1863, the amount being divided into payments of Rs.50,000 each to the two Begums. By a consent decree of the High Court each of these two beneficiaries was made to pay to Mir Zulfikar Ali Khan an illegitimate descendant of Mir Jafarali Khan, a sum of Rs.3[illegible],000 [illegible] a year. On the death of Rahim-ul-Nissa Begum in 1886, a sum of Rs.10,000 a year was ordered to be paid to her descendants from her pension, while a sum of Rs.37,000 was invested annually so as to provide for the family after the total lapse of the whole pension. Zia-ul-Nisa Begum, the survivor, died at Surat on the 27th May 1915 and the total grant of one lakh a year lapsed to Government. The invested amount had, however, in the meanwhi accummulated to over 18 lakhs and the following arrangements are now made, with the sanction of the Government of India, for the benefit of the family.

In place of the distribution of the accumulated fu Government are pleased on political grounds to order th two pensions of the amounts noted below shall be payabl to the head male representative of each branch of the family. These pensions shall be deemed to have been granted under section 11 of the Pensions Act, 1871 (XXIII of 1871). Government are pleased to recognize as the representative of the branch of the family descended from Rahim-ul-Nissa Begum, her son Sardar Mir Muzaffar Husain Khan, and as the representative of the Branch of the family descended from Zia-ul-Nissa Begum, her grandson Mir Hasun Alam [illegible] Khan etc."

The aforesaid grant was made subject to certain conditions printed in the accompaniment to that G.R. Condition No.2 provides:

"Legitimate descendants by male descent shall have a

claim upon the recipient of the pension for education or maintenance or both, according to the circumstances of each case; provided that no such claim shall ordinarily be recognised as of right in the case of males after the attainment of majority, and in the case of females after marriage. The Government of Bombay however reserve to themselves the right to make an equitable distribution of the pensions at any time, should their interference be considered to be justified by dissensions or any other cause."

Condition No.3 lays down:

"The head of each family should be responsible for the education of the yound male members of it, and this responsibility should be enforced by the Collector who is empowered to withhold, with the previous sanction of Government, such sum from the pension concerned as may be necessary to pay for the education of any male member of the family concerned whose education he may consider to have been neglected."

The Note thereto provides that the phrase 'yound male mebers' above is intended to include only direct descendants of the original grantee of each pension.

The present pension holder in the branch of the family descended from Zia-ul-Nissa Begum is Mir Sultan Alam Khan; and his uncle Mir Saeed Alam Khan has applied to Government to sanction an allowance for the education of his minor son and two unmarried daughters. H.E. proposes to sanction a contribution of Rs.50/- per month during the period ~~x~~ for the children's education/requested to advise whether the allowance would be permissible under condition No.2. provided it is permissible under condition No.2. The R.L.A. is

2. Conditions 2 and 3 appear to provide for different purposes and are not interdependent. Nor are they overlapping. Consequently the Note to condition 3 cannot be read with condition 2. It is true that the words "legimate descendants by male descent" in condition 2 are somewhat ambiguous; but in construing these words it would be necessary to consider the object of the grant. It appears from the letter from the Government of India in the

Foreign and Political Department, No.329-G dated the 17th March 1916 and the letter to the Collector and Political Agent Surat No.3687 dated the 18th May 1916 which have been printed in the preamble to G.R., Political Department No.6379 dated the 25th August 1917 that it was for the benefit of the descendants of Mir Jafarali Khan of Surat that Government sanctioned the political pensions to the two branches of his family represented by Zia-ul-Nissa Begum and Rahim-ul-Nissa Begum. Consequently legitimate descendants by male descent in condition No.2 would mean legitimate descendants of Zia-ul-Nissa Begum and Rahim-ul-Nissa Begum by male descent.

If Government intended to restrict the benefit of conditon 2 only to the legitimate descendants of the persons whom they recognized as holders of the two Pensions, they would have worded condition 2 somewhat differently and made separate provision for the maintenance of Mir Abdul Rasul Allam Khan in preference to whom his son Mir Abdul Rasul Allam Khan was recognised as the representative of the branch of the family descended from Zia-ul-Nissa Begum, and for the maintenance and education of Mir Masun Alam Khan's brother i.e. the present petitioner, both of whom would otherwise have no claim on the recipient of the pension. Moreover condition 2 specifically reserves to Government the right to make an equitable distribution of the pensions at any time should its interference be considered to be justified by dissensions or any other cause. Consequently there would be no legal objection to Government sanctioning under condition 2 the allowance for the education of Mir Saeed Alam Khan's children as proposed by H.E.

Id/- P.M.M.
Remembrancer of Legal Affairs.

U.R. to P. & S.D. No.6236 dated the 24th August 1945.